



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

IAN A. BOWLES
Secretary

LAURIE BURT
Commissioner

April 18, 2008

In the Matter of

North Washington Wharf LLC and
Beverly Wharf LLC
[Lovejoy Wharf Project]

OADR Docket No. 2007-056
DALA Docket No. DEP-07-477
File No. 006-1076
Boston

FINAL DECISION

SUMMARY:

In a Recommended Final Decision dated March 24, 2008, the Magistrate has recommended granting a Motion for Summary Decision on the Petitioners challenge to a Superseding Order of Conditions issued by the Department for the reconstruction of the Lovejoy Wharf in Boston, including extension of the Harborwalk. The Petitioners' failed to raise material factual disputes to counter Applicants' substantial evidence supporting the findings of the Department that the project complied with all applicable wetlands performance standards and requirements.

Jamy Buchanan Madja, Esq. (Buchanan and Associates), Boston, for the petitioner.
C. Dylan Sanders, Esq. (DLA Piper US LLP), Boston, for the applicants.
Samuel Bennett, Esq., Boston, for the Department of Environmental Protection.
Christopher Busch, Boston, For the Boston Conservation Commission.

This appeal involves a proposal by North Washington Wharf, LLC and Beverly Wharf LLC (the "Applicants") to reconstruct the dilapidated Lovejoy Wharf in Boston's Inner Harbor



with a new structure, including the extension of the public Harborwalk. The Boston Conservation Commission issued an Order of Conditions that permitted the project, and the Department of Environmental Protection (“MassDEP or “the Department”) affirmed this in a Superseding Order of Conditions (“SOC”). The Petitioners, Strada234 Residents Group, a group of neighboring residents, appealed, and they alleged that the SOC did not adequately protect the wetlands resource areas under the performance standards and requirements of the Wetlands Protection Act (the “Act”) and 310 CMR 10.00 et seq. (the “Wetlands Regulations”).

At pre-screening conference held at the Department’s Office of Appeals and Dispute Resolution (“OADR”), the parties were able to resolve one issue, namely the correction of the name of the property owner and applicant, from Robert Easton to North Washington Wharf LLC and Beverly Wharf LLC. After it become clear that no other issues could be resolved, the case was transferred to the Division of Administrative Law Appeals (“DALA”). After transfer to DALA, the Applicants moved for summary decision and the Department concurred with this motion. Petitioners opposed the motion. The DALA Magistrate, Bonney Cashin, issued a Recommended Final Decision on March 24, 2008, granting the Applicants’ motion and recommending that a Final Order of Conditions be issued as originally approved by the Department, except with a correction of the property owners’ and applicants’ names.

I adopt the Recommended Final Decision of the DALA Magistrate in full. I direct the Department staff to prepare a Final Order of Conditions, consistent with this and the Recommended Final Decision, for my signature within five business days of the date of issuance of this Final Decision.

The parties to this proceeding are notified of their right to file a motion for reconsideration of this Final Decision, pursuant to 310 CMR 1.01(14)(e). The motion must be

filed with OADR's Case Administrator, Anne Hartley, and served upon all parties within seven business days of the postmark date of this Final Decision. A person who has the right to seek judicial review may appeal this Final Decision to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint must be filed with the Court within thirty days of receipt of this Final Decision.

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Laurie Burt
Commissioner